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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,043	06/24/2003	Jason P. McDevitt	KCX-375-CON (16068.1)	1869
22827	7590	04/07/2004	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			COLE, LAURA C	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,043

Applicant(s)

MCDEVITT ET AL.

Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 46-56 is/are allowed.
- 6) ☒ Claim(s) 57-60 and 62 is/are rejected.
- 7) ☐ Claim(s) 61, 63 and 64 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1, 2, 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 57, 59, and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Ota, USPN 3,982,298.

Ota discloses the claimed invention including a first hollow member (2) having an open end (see Figures, 6), the hollow member further defining a texturized surface (11 or 14), a second hollow member (3) having an open end (see Figures, 6), the second hollow member comprising a base web (Column 2 Lines 44-49), and a connecting portion (4) for connecting the first hollow member to the second hollow member. The second hollow member defines a texturized surface (12, 16). The first hollow member and second hollow member include a closed end located opposite each open end (see Figures).

2. Claims 57-59, and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Ness, USPN 2,041,262.

Ness discloses the claimed invention including a first hollow member (8a) having an open end (see Figure 1), the hollow member further defining a texturized surface (9), a second hollow member (8b) having an open end (see Figure 1), the second hollow member comprising a base web (Column 1 Lines 47-51), and a connecting portion (8c)

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for connecting the first hollow member to the second hollow member. The base web of the first hollow member and the base web of the second hollow member both comprise an elastic nonwoven material such as rubber (Column 1 Lines 47-51). The second hollow member defines a texturized surface (9). The first hollow member and second hollow member include a closed end located opposite each open end (see Figures).

3. Claims 57, 59, and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Rescigno, USPN 4,884,581.

Rescigno discloses the claimed invention including a first hollow member (22) having an open end (see Figure 6), the hollow member further defining a texturized surface (16, 20; Column 3 Lines 62-66), a second hollow member (24) having an open end (see Figure 6), the second hollow member comprising a base web (Column 6 Line 67 to Column 4 Line 1), and a connecting portion (18) for connecting the first hollow member to the second hollow member. The second hollow member defines a texturized surface (16, 21). The first hollow member and second hollow member include a closed end located opposite each open end (see Figures 6-10).

4. Claims 57, 59, and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown, USPN 5,280,661.

Brown discloses the claimed invention including a first hollow member (16) having an open end (see Figures), the hollow member further defining a texturized surface (26), a second hollow member (14) having an open end (see Figures), the second hollow member comprising a base web (Column 2 Lines 43-46), and a connecting portion (24) for connecting the first hollow member to the second hollow

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member. The second hollow member defines a texturized surface (26). The first hollow member and second hollow member include a closed end located opposite each open end (see Figures).

5. Claims 57, 59, and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Carr, USPN 5,765,252.

Carr discloses the claimed invention including a first hollow member (60 or 82) having an open end (see Figures), the hollow member further defining a texturized surface (64 or 88), a second hollow member (68 or 84) having an open end (see Figures), the second hollow member comprising a base web (Column 6 Lines 10-13), and a connecting portion (70 or portion between fingers 82 and 84) for connecting the first hollow member to the second hollow member. The second hollow member defines a texturized surface (88). The first hollow member and second hollow member include a closed end located opposite each open end (see Figure 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ness, USPN 2,041,262 in view of Meunier, USPN 2,599,191.

Ness discloses all elements above; however does not include the textured surface comprising of looped bristles.

Meunier discloses a dental brush having looped bristles (9) as a cleaning surface that is beneficial for those having sensitive mouth tissues (Column 1 Lines 4-23.)

It would have been obvious for one of ordinary skill in the art to substitute the cleaning elements of Ness for the looped bristle texture that Meunier teaches in order to accommodate more sensitive gums.

7. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ness, USPN 2,041,262 in view of Porcelli, USPN 5,678,273.

Ness discloses all elements above, however does not include the textured surface comprising of looped bristles.

Porcelli teaches an oral hygiene applicator that comprises looped bristles so that they are capable of acting omnidirectionally in cleaning teeth and massaging gums regardless of the movement of the applicator and because the loops act as scoops to capture food particles (Column 2 Lines 27-41).

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It would have been obvious for one of ordinary skill in the art to substitute the cleaning elements of Ness for the looped bristle texture that Porcelli teaches so that a more effective brushing and cleaning of teeth and gums may occur.

8. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rescigno, USPN 4,884,581 in view of Meunier, USPN 2,599,191.

Rescigno discloses all elements above, however does not include the textured surface comprising of looped bristles.

Meunier discloses a dental brush having looped bristles (9) as a cleaning surface that is beneficial for those having sensitive mouth tissues (Column 1 Lines 4-23.)

It would have been obvious for one of ordinary skill in the art to substitute the cleaning elements of Rescigno for the looped bristle texture that Meunier teaches in order to accommodate more sensitive gums.

9. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rescigno, USPN 4,884,581 in view of Porcelli, USPN 5,678,273.

Rescigno discloses all elements above, however does not include the textured surface comprising of looped bristles.

Porcelli teaches an oral hygiene applicator that comprises looped bristles so that they are capable of acting omnidirectionally in cleaning teeth and massaging gums regardless of the movement of the applicator and because the loops act as scoops to capture food particles (Column 2 Lines 27-41).

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It would have been obvious for one of ordinary skill in the art to substitute the cleaning elements of Rescigno for the looped bristle texture that Porcelli teaches so that a more effective brushing and cleaning of teeth and gums may occur.

10. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carr, USPN 5,765,252 in view of Meunier, USPN 2,599,191.

Carr discloses all elements above, however does not include the textured surface comprising of looped bristles.

Meunier discloses a dental brush having looped bristles (9) as a cleaning surface that is beneficial for those having sensitive mouth tissues (Column 1 Lines 4-23.)

It would have been obvious for one of ordinary skill in the art to substitute the cleaning elements of Carr for the looped bristle texture that Meunier teaches in order to accommodate more sensitive gums.

11. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carr, USPN 5,765,252 in view of Porcelli, USPN 5,678,273.

Carr discloses all elements above, however does not include the textured surface comprising of looped bristles.

Porcelli teaches an oral hygiene applicator that comprises looped bristles so that they are capable of acting omnidirectionally in cleaning teeth and massaging gums regardless of the movement of the applicator and because the loops act as scoops to capture food particles (Column 2 Lines 27-41).

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It would have been obvious for one of ordinary skill in the art to substitute the cleaning elements of Carr for the looped bristle texture that Porcelli teaches so that a more effective brushing and cleaning of teeth and gums may occur.

Allowable Subject Matter

12. Claims 46-56 are allowed.

13. Claims 61, 63 and 64 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art made of record teaches or suggests a plurality of spaced apart microcuts. Further, none of the prior art teach or suggest a cleaning device having an elastic nonwoven of a first hollow member and second hollow member comprise an elastic component and a non-elastic component, the elastic nonwoven material of the first hollow member or the elastic nonwoven material of the second hollow member comprise a stretch bonded laminate or a neck-bonded laminate.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Mondays through Thursdays, and alternating Fridays, from 7:30 am to 5 pm.

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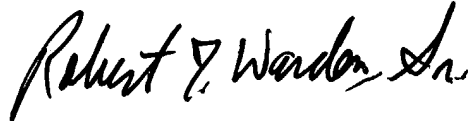
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden, can be reached at (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LCC

LCC

29 March 2004



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